

Application No. 09/740,209

**REMARKS**

In an Office Action dated April 7, 2005, claims 1-7, 9-17, 19 and 21-24 were rejected under 35 U.S.C. 102(f) because it was believed that applicant did not invent the claimed subject matter. In particular, U.S. Patent 6,622,720 (hereinafter the '720 patent) was cited as having the same invention but listing different inventors. Babur Hadimioglu is the sole inventor listed on the '720 patent. Babur Hadimoglu is also one of three inventors on the current pending patent. Thus Applicant respectfully submits that there is no conflict of inventorship on the two patents. In particular, it is believed that any commonly claimed material between the '720 patent and the current pending patent must be invented by Hadimoglu who is an inventor on both patents. The current pending patent also claims material not claimed in the 720 patent, some of that material is invented by the two remaining inventors, Jaan Noolandi and Robert Sprague.

In the Office Action dated April 7, 2005, claims 11-17 and claim 19 were rejected as obviousness type double patenting over the claims of the '720 patent. In response, Applicant's representative has included herewith a terminal disclaimer that complies with 37 CFR 1.321(c).

In the Office Action dated April 7, 2005, claims 1, 2, 5, 6 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elrod (U.S. patent 4,748,461) in view of either Elrod-2 (U.S. Patent 4,751,530) or Oettfetering (U.S. Patent 5,722,479). Applicant respectfully disagrees. In particular, Applicant respectfully submits that none of the references describe a driver element producing low frequency acoustic energy to produce a capillary wave as claimed in independent claims 1 and 23.

In Elrod the ejectors produce droplets, they do not produce capillary waves. Instead, the capillary waves are produced by electric field gradients produced by conductors 22a and 22b and counterelectrodes 23a and 23b that exert a dielectric body force on the liquid. This changing electric field gradients produce a disturbance that subsequently propagates as a free capillary wave on the surface. See Elrod, Col 3, lines 50-56. Generation of the capillary waves is accomplished by pulsing 300 volts across the electrodes at 500 microsecond intervals. Thus, the mechanism is completely different from the claimed method. In particular, the Elrod reference does

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not describe a driver element producing low frequency acoustic energy to produce a capillary wave, instead Elrod uses an electric field across the surface of the liquid.

No obviousness basis for rejecting claim 9 has been provided. Thus, Applicant has rewritten claim 9 in independent form. Applicant respectfully submits that none of the references use an acoustic signal of less than 15 MHz to generate a capillary wave. The limitation of claim 9 has also been incorporated into independent claims 11 and 14. All remaining claims depend on independent claims 1, 9, 11, 14 and 23 and thus are also believed to be patentable. Applicant believes that no new matter has been added that would require another search.

In view of the preceding amendments and remarks, Applicant respectfully submits that the claims as amended are allowable over the cited prior art reference, and allowance is hereby respectfully requested. In the event that the Examiner believes a teleconference would facilitate prosecution, Applicant respectfully requests that Examiner contact the undersigned.

Respectfully submitted,

  
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